

AO 91 (Rev. 08/09) Criminal Complaint

United States District Court  
Southern District of Texas  
FILED

## UNITED STATES DISTRICT COURT

MAY 06 2020

for the

Southern District of Texas

David J. Bradley, Clerk

United States of America

Jorge Hinojosa-Rios, YOB: 1976, COB: MEX  
Juan Santiago Martinez, YOB: 1976, COB: MEX  
Jesus Gracia-Cruz, YOB: 1972, COB: MEX

Case No. M-20-0945-M

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 5, 2020 in the county of Hidalgo in the  
Southern District of Texas, the defendant(s) violated:

## Code Section

18 USC 554

18 United States Code 922(g)(5)(A)

## Offense Description

Did knowingly and willfully conspired, aided, and abetted in an attempt to export or send from the United States, any article, or object, to wit: approximately 3,000 rounds of 7.62X39mm ammunition, 200 rounds of .50 BMG ammunition, 67 AK type magazines contrary to any law or regulation of the United States, or receives, conceals, buys or in any manner facilitates the transportation or concealment of such article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States.

Did knowingly possess ammunition while being an alien who was illegally and unlawfully within the United States

This criminal complaint is based on these facts:

SEE ATTACHMENT "A"

Submitted by reliable electronic means, sworn to and attested to telephonically per Fed. R. Cr. P. 4.1, and probable cause found on: 5/6/20 - 5:08 PM

✓ Continued on the attached sheet.

Approved by AUSA Robert Guerra

/s/ Gregory Connolly

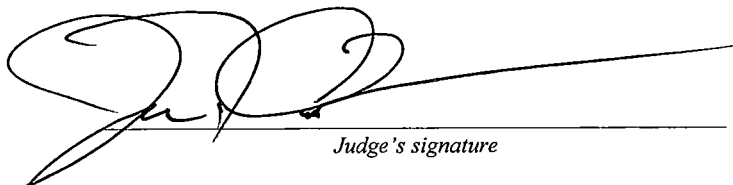
Complainant's signature

Gregory Connolly, HSI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: \_\_\_\_\_



Judge's signature

City and state: McAllen, Texas

Juan Alanis, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

On or about April 27, 2020 Homeland Security Investigations (HSI), as well as The Bureau of Alcohol Tobacco, Firearms and Explosives (ATF), began a joint investigation into an individual later identified as Jesus Alfredo GRACIA Cruz (hereinafter known as GRACIA). During the investigation, HSI/ATF learned GRACIA was purchasing large amounts of high caliber ammunition.

On May 5, 2020, ATF/HSI learned GRACIA was expected to pick up ammunition at a local McAllen, TX Federal Firearms Licensed Dealer (FFL) for possible illegal export from the United States into Mexico.

At approximately 1550hrs on May 5, 2020, HSI Special Agents as well as ATF Special Agents (SA) witnessed GRACIA and another individual later identified as Jorge HINOJOSA Rios (hereinafter known as HINOJOSA) enter a local McAllen, FFL. HINOJOSA exited the store carrying 5 small bags which resembled AK type magazines. A few minutes later, GRACIA and HINOJOSA made multiple trips in and out from the FFL carrying boxes. All boxes were placed in the trunk of the vehicle and both HINOJOSA and GRACIA left the FFL.

HSI/ATF followed the vehicle to a gas station located in Edinburg, TX. There, HINOJOSA exited the vehicle and went inside the store. GRACIA drove away from the store and continued to a trailer home located in Edinburg, Texas. Once the vehicle stopped, ATF/HSI SAs approached GRACIA and identified themselves. GRACIA agreed to speak with agents and a non-custodial consensual interview was conducted of GRACIA.

After SAs spoke with GRACIA, GRACIA consented to a search of the vehicle. During a search, 3,000 rounds of 7.62X39mm ammunition were found in the trunk of the vehicle, along with 200 .50 caliber BMG rounds of ammunition. In the back seat of the vehicle, SAs discovered 5 AK type magazines.

GRACIA was read his Miranda rights, which he waived. During GRACIA's post-Miranda statement, GRACIA stated he was an alien who was in the country illegally. As such, GRACIA did knowingly possess ammunition while being an alien who was illegally and unlawfully within the United States. GRACIA further admitted that he had a fake Texas Driver's License and that he had picked up all the ammunition discovered by agents in the vehicle from the FFL in McAllen. GRACIA also stated he knew the ammunition was purchased for illegal export from the United States to Mexico and that it was illegal to do so.

ATTACHMENT A

HSI/ATF SAs made contact with the owner of the residence who gave consent to search the trailer. During the search, ATF/HSI SAs found and additional 62 AK type magazines (for a total of 67 total magazines) wrapped in cellophane and hidden inside a two back packs. HSI/ATF SAs made contact with Juan Heriberto SANTIAGO (hereinafter known as SANTIAGO) who was also living in the trailer. SANTIAGO stated he knew GRACIA. SANTIAGO was read his Miranda rights. SANTIAGO waived his Miranda rights and admitted he wrapped the AK type magazines in cellophane and placed them inside the bags. SANTIAGO also stated he knew the ammunition and magazines were going to be exported to Mexico and it was illegal to do so.

Agents returned to the gas station and made contact with HINOJOSA. HINOJOSA was read his Miranda rights and he waived them. During the post-Miranda interview, HINOJOSA stated he had purchased ammunition 5 times prior to May 5, 2020 for illegal export to Mexico. HINOJOSA admitted he knew the ammunition purchased today was going to be exported from the United States and into Mexico. HINOJOSA further stated he knew it was illegal to do so.

According to the U.S. Department of State, Office of Defense Trade Controls Compliance (DTCC), the seized AK type magazines as well as the 7.62x39mm caliber ammunition and the .50 BMG caliber ammunition, are determined to be defense articles described on the United States Munitions List (USML) and regulated for export pursuant to the Arms Export Control Act (Title 22, United States Code, 2778). The ammunition traveled in and affecting interstate and foreign commerce in that the 7.62x39mm caliber ammunition and the .50 BMG caliber ammunition was manufactured outside of the state of Texas.